

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**FEDERAL TRADE COMMISSION,**

**Plaintiff,**

**vs.**

**HOLD BILLING SERVICES, Ltd.; HBS, Inc.;**  
**AVERY COMMUNICATIONS, INC.;**  
**VETERANS OF AMERICA ASSOCIATION,**  
**Ltd.; THOMAS M. LYONS; KEITH C. CALIL;**  
**and MILFORD H. BALABAN,**

**Defendants.**

**NO. 5:98-CV-0629-FB**

**RESPONDENTS' FINAL WITNESS AND EXHIBIT LIST**

TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:

Pursuant to the Court's May 3 and August 2, 2130 Scheduling Orders, NOTICE IS  
 HEREBY GIVEN that Respondents<sup>1</sup> expect to present the following witnesses at the evidentiary  
 hearing in this matter, if any:

#	NAME	CONTACT	ANTICIPATED TESTIMONY
1.	<b>Norman Phipps</b>	7411 John Smith Drive Suite 1500 San Antonio, TX 78229	Respondents anticipate that Mr. Phipps will testify regarding Respondents' past and current corporate structure, Respondents past and current operations and services, and the revenues from and costs associated with the Landeen Entity transactions at issue.
2.	<b>Kelli Cubeta</b>	7411 John Smith Drive Suite 1500 San Antonio, TX 78229	Respondents anticipate that Ms. Cubeta will testify about LEC billing, LEC marketing requirements and restrictions; Respondents' contractual relationships with vendors, summaries and computations of inquiry

<sup>1</sup> The following non-parties are collectively referred to as the "Respondents": (1) Billing Services Group Limited ("BSG Ltd."), (2) Billing Services Group North America, Inc. ("BSGNA"), (3) BSG Clearing Solution North America, LLC ("BSG Clearing"), (4) HBS Billing Services Company ("HBS"), (5) ACI Billing Services, Inc. ("ACI"), (6) Billing Concepts, Inc. ("BCI"), and (7) Enhanced Services Billing, Inc. ("ESBI").

#	NAME	CONTACT	ANTICIPATED TESTIMONY
			threshold levels, and, Respondents' business practices aimed at regulatory and legal compliance. Ms. Cubeta will further testify regarding Respondents' due diligence, testing and monitoring, inquiry thresholds, and performance evaluations of vendors including the Landeen Entities. <sup>2</sup>
3.	<b>John Wardashki</b>	7411 John Smith Drive Suite 1500 San Antonio, TX 78229	Respondents anticipate that Mr. Wardashki will testify about his duties implementing Respondents' due diligence procedures, monitoring and testing, inquiry thresholds, and the application of Respondents' practices to the Landeen Entities.
4.	<b>Sally Welge</b>	9826 Bushbuck Way San Antonio, TX 78251	Respondents anticipate that Ms. Welge will testify about the process for LEC billing; LEC marketing requirements and restrictions; and, Respondents' due diligence procedures, monitoring and testing, inquiry thresholds, and the application of Respondents' practices to the Landeen Entities.
5.	<b>Blanca DeLeon</b>	7411 John Smith Drive Suite 1500 San Antonio, TX 78229	Respondents anticipate that Ms. DeLeon will testify about her duties implementing Respondents' customer service guidelines and policies, including the activities taken by Respondents to monitor and improve customer service.
6.	<b>Cathy Coleman-Ackerman</b>	7400 Jason Ave. West Hills, CA 91307	Respondents anticipate that Ms. Coleman-Ackerman will testify about the financial transactions relating to the Landeen Entities, including information regarding charges transmitted, debits, refunds, credits, write-offs, revenues, and class action claims paid.
7.	<b>Craig Needles</b>	7411 John Smith Drive Suite 1500 San Antonio, TX 78229	Respondents anticipate that Mr. Needles will testify about the consumer data produced by Smiley Media and the BTN data produced by Respondents.
8.	<b>John Papworth, CPA Marketing Director of Media (former)</b>	(714)-274-3885	Respondents anticipate that Mr. Papworth will testify about the business practices of Studio 127, Inc. (a/k/a CPA Marketing), the affiliated

<sup>2</sup>The following entities are collectively referred to as the "Landeen Entities": Durham Technologies/MyiProducts, eSafeID, eProtectID, 800 Vmailbox, Digital VMail, InfoCall, Instant411, Streaming Flix and Uvolve.

#	NAME	CONTACT	ANTICIPATED TESTIMONY
	<b>Studio 127, Inc.</b>		marketers contracted by Studio 127, and the Landeen Entities' products and services.
<b>9.</b>	<b>Slade Cutter of Cutter Law P.C.</b>	3267 Bee Cave Road, Suite 107-154 Austin, Texas 78746	Respondents anticipate that Mr. Cutter will testify regarding the business practices of Smiley Media including its compliance efforts and the data it produced in connection with this case.
<b>10.</b>	<b>Stephen Oskoui of Smiley Media</b>	701 Brazos St., Suite 1600, Austin, TX 78701	Respondents anticipate that Mr. Oskoui will testify regarding the statements contained in the Declaration of Stephen Oskoui, along with the authenticity and admissibility of documents of Smiley Media.
<b>11.</b>	<b>Brian Jones of iDataWorx, LLC</b>	1011 Highway 6 South, Suite 322, Houston, TX 77077	Respondents anticipate that Mr. Jones will testify as to the programming developed by iDataWorx for Alternative Billing Corporation.
<b>12.</b>	<b>Brian Percival of the Federal Bureau of Investigations</b>	8825 Nelson B. Klein Pkwy., Indianapolis, IN 46250	Respondents anticipate that Mr. Percival will testify regarding the statements contained within the Declaration of Brian Percival, along with the authenticity and admissibility of documents attached thereto. Respondents further anticipate that Mr. Percival will testify as to documents yet to be produced by the FBI with regard to the FBI's investigation of Cindy Landeen and the Landeen Entities, including Respondents' cooperation with that investigation.
<b>13.</b>	<b>Andrew Chen of Visa</b>	900 Metro Center Blvd., Foster City, CA 94404	Respondents anticipate that Mr. Chen will testify regarding the statements contained within the Declaration of Andrew Chen.
<b>14.</b>	<b>Elizabeth Ann Miles of the Federal Trade Commission</b>	600 Pennsylvania Ave. NW, Washington, D.C. 20580	Respondents anticipate that Ms. Miles will testify regarding the statements contained within her Declaration, the attachments thereto, and the matters covered during her deposition.
<b>15.</b>	<b>Anabel Dela Cerna Genetski</b>	121 4th St NE Washington, D.C. 20002	Respondents anticipate that Ms. Genetski will testify regarding her data analyst work on behalf of the FTC which was reviewed, relied upon and partially adopted by Ms. Miles.
<b>16.</b>	<b>Robert Zoch of NXT Telecommunications, Inc.</b>	2827 FM 1624 Giddings, TX 78942	Respondents anticipate that Mr. Zoch will testify to the documents and data produced to the FTC by NXT and the interpretation of that information. He will also testify as to the statements contained within his Certification of Records of Regularly Conducted Activity, as

#	NAME	CONTACT	ANTICIPATED TESTIMONY
			well as the usage of the voicemail services offered by three of the Landeen Entities.
17.	<b>Representative of Rovi Corporation, including but not limited to, Brett Healy, Eric Wilson, Yvonne Kilgariff</b>	2830 De La Cruz Blvd., Santa Clara, CA 95050	Respondents anticipate that these representatives will testify regarding the statements contained within his Certification of Records of Regularly Conducted Activity, along with the authenticity and admissibility of documents.
18.	<b>Representative of Epiq</b>	P.O. Box 4655, Portland Oregon 97208	Respondents anticipate that Epiq will testify as to the class action settlement and claims data from the <i>Moore v. Verizon</i> case, along with the authenticity and admissibility of documents related thereto.
19.	<b>Representative of GCG</b>	P.O. Box 35045 Seattle, Washington 98124	Respondents anticipate that GCG will testify as to the class action settlement and claims data from the <i>Nwabueze v. AT&amp;T</i> case, along with the authenticity and admissibility of documents related thereto.
20.	<b>Dr. Robert Rauschenberger</b>	233445 N. 19 <sup>th</sup> Avenue, Phoenix, Arizona 85027	Respondents anticipate that Dr. Rauschenberger will testify to the facts and opinions stated in Dr. Rauschenberger's expert report.
21.	<b>Ian Ratner</b>	3424 Peachtree Rd., Suite 2150, Atlanta, Georgia 30326	Respondents anticipate that Mr. Ratner will testify to the facts and opinions stated in Mr. Ratner's expert report.

Respondents reserve the right to supplement or modify this list based on further discovery or investigation. Respondents further reserve the right to offer testimony to rebut any expert subsequently named by Plaintiff. Respondents further reserve the right to call additional witnesses in rebuttal and to call or cross-examine any witnesses identified by Plaintiff.

Pursuant to the Court's May 3, 2013 and August 2, 2013, Scheduling Orders, NOTICE IS HEREBY GIVEN that Respondents may rely on the following documentary evidence, copies of which previously have been provided Plaintiff, are in Plaintiff's possession, or will be produced to Plaintiff.

**EXHIBITS**

#	Item / Bates No.
1.	1999 Permanent Injunction
2.	2001 Permanent Injunction
3.	2008 Permanent Injunction
4.	BCI_008553
5.	BCI_011031
6.	BCI_011141-230
7.	BCI_011393-453
8.	BCI_011496-7
9.	BCI_012424-5
10.	BCI_012433-522
11.	BCI_012564-5
12.	BCI_012606-97
13.	BCI_014200-1
14.	BCI_015592
15.	BCI_015594
16.	BCI_015603
17.	BCI_022553-73
18.	BCI_022641-43
19.	BCI_022755-22889
20.	BCI_0022649-754
21.	BCI_022890-23030
22.	BCI_024092-222
23.	BCI_023013-173
24.	BCI_023174-341
25.	BCI_023591-734
26.	BCI_023735-842
27.	BCI_023843-954

#	Item / Bates No.
28.	BCI_023955-024091
29.	BCI_023764
30.	BCI_025609
31.	BSG 00049351-6
32.	BSG 2005 CID Response III.B.13.d-001889-90
33.	BSG_Resp.-I-p.0000062
34.	BSG00008298
35.	BSG0000966-967
36.	BSG00017789-91
37.	BSG00019025-26
38.	BSG00019108
39.	BSG00019527
40.	BSG00019575
41.	BSG00019582
42.	BSG00019594
43.	BSG00019617
44.	BSG00019638-40
45.	BSG00024014-19
46.	BSG00024431
47.	BSG00024707-8
48.	BSG00025325
49.	BSG00026731
50.	BSG00026739-40
51.	BSG00026870
52.	BSG00026901-2
53.	BCI_011031
54.	BSG00027802-86
55.	BSG00027928-34

#	Item / Bates No.
56.	BSG00027960
57.	BSG00027971
58.	BSG00027980
59.	BSG00028353
60.	BSG00034363
61.	BSG00035208
62.	BSG00035286
63.	BSG00035761
64.	BSG00035903
65.	BSG00035932
66.	BSG00035943-04
67.	BSG00036085
68.	BSG00036105-06
69.	BSG00037238
70.	BSG00039495
71.	BSG00039801
72.	BSG00040218
73.	BSG00040265-7
74.	BSG00040501-31
75.	BSG00043957
76.	BSG00044516
77.	BSG00044554-56
78.	BSG00045186-87
79.	BSG00048166
80.	BSG00048884
81.	BSG00048997
82.	BSG00049386-90
83.	BSG00049409-15

#	Item / Bates No.
84.	BSG00049422
85.	BSG00049494-95
86.	BSG00049500
87.	BSG00049515
88.	BSG00049518
89.	BSG00049527
90.	BSG00049532-4
91.	BSG00049546-48
92.	BSG00049547
93.	BSG00049554-56
94.	BSG00054101
95.	BSG00054274
96.	BSG00054391
97.	BSG00054517-8
98.	BSG00054872
99.	BSG00056624-26
100.	BSG00056672
101.	BSG00056692
102.	BSG00056696
103.	BSG00056838
104.	BSG00056848
105.	BSG00056985
106.	BSG00062964
107.	BSG00066465
108.	BSG00066747
109.	BSG00067462
110.	BSG00067579
111.	BSG00068166



#	Item / Bates No.
112.	BSG00068244
113.	BSG00069235
114.	BSG00070737
115.	BSG00070740
116.	BSG00071654-60
117.	BSG00077100-03
118.	BSG00078966
119.	BSG00080881
120.	BSG0008297-98
121.	BSG00083176
122.	BSG00086897-902
123.	BSGCID_000780
124.	BSGCID_000818
125.	BSGCID_000843
126.	BSGCID_000878
127.	BSGRESPIXVI000002747
128.	Excerpts of the record from <i>F.T.C. v. Nationwide Connections, Inc., et al.</i> , Case No. 9:06-cv-80180-KLR
129.	BSG_Resp.II.p.00000119-20
130.	FTC_APP_000857-880
131.	FTC_APP_000881-904
132.	BSG_Resp.II-p.00000296-320
133.	BSG_Resp.II-p.00000332-352
134.	BSG_Resp.II-p.00000364-382
135.	FTC_APP_000968-991
136.	FTC_APP_000992-1015
137.	INV_000982-988
138.	BSG_Resp.II-p.00000140-159
139.	FTCPROD-HBS-0003240-47

#	Item / Bates No.
140.	FTCPROD-HBS-0003297-300
141.	FTCPROD-HBS-0003387
142.	FTCPROD-HBS-0003431
143.	FTCPROD-HBS-0003650
144.	FTCPROD-HBS-0003664
145.	FTCPROD-HBS-0003723-26
146.	FTCPROD-HBS-0004172
147.	FTCPROD-HBS-0004179
148.	FTCPROD-HBS-0004185
149.	INV_001213-54
150.	FTCPROD-HBS-0002807-21
151.	INV_001613-18
152.	INV_001553-1612
153.	HBSDOC-0009372
154.	IMGHBS-S-00001301
155.	FTC_APP_000051-69
156.	FTC_APP_000070-93
157.	FTC_APP_000294-6
158.	FTC_APP_000181-281
159.	BCI_000204
160.	BCI_006379
161.	BCI_007046-48
162.	BCI_008513-15
163.	BCI_009626-27
164.	BCI_009638
165.	BCI_025725
166.	BCI_025753
167.	BCI_025770-72

#	Item / Bates No.
168.	FBI_000003-33
169.	INV_002100-07
170.	PLDG_000001-35
171.	BCI_001062-63
172.	BCI_017902-03
173.	BCI_018164
174.	BCI_000349-51
175.	BCI_006588
176.	BCI_006643
177.	BCI_007082
178.	BCI_006724
179.	BCI_007513
180.	BCI_008106
181.	BCI_007680
182.	BCI_007982
183.	BCI_009379
184.	BCI_008914
185.	BCI_009211
186.	BCI_008550
187.	BCI_008553
188.	BCI_010666
189.	BCI_010044
190.	BCI_011006
191.	BCI_009642
192.	BCI_009904
193.	BCI_009771
194.	BCI_010173
195.	BCI_012536

#	Item / Bates No.
196.	BCI_013814-16
197.	BCI_025347- 540
198.	BCI_028372
199.	BCI_026287-312
200.	BCI_026311-12
201.	BCI_026313-14
202.	BCI_026315-16
203.	BCI_026317
204.	BCI_026318
205.	BCI_026319
206.	BCI_026320
207.	BCI_026330-41
208.	BCI_028383
209.	BCI_028392
210.	BCI_028408
211.	BCI_028409-10
212.	BSG00027984-84 (FTC_APP_001905-09)
213.	BSGRESPIXVIII00002747-764
214.	FTC-HBS0000603-16
215.	FTC-HBS0000267-79
216.	FTC-HBS0000237-64
217.	FTC-HBS0000314-29
218.	FTC-HBS0000343-58
219.	FTC-HBS0000841-53
220.	FTC-HBS0000034-46
221.	FTC-HBS0000148-59
222.	BCI_022649-24222
223.	BCI_026342-28370
224.	BCI2_000001-000996

#	Item / Bates No.
225.	FBI_000001
226.	FBI_000002
227.	Smiley_000001
228.	BCI_026321-29
229.	FBI_000034-35
230.	FBI_000036
231.	FBI_000037-39
232.	FBI_000040-42
233.	FBI_000043-44
234.	FBI_000045-47
235.	FBI_000048-50
236.	FBI_000051-53
237.	FBI_000054-66
238.	FBI_000067
239.	FBI_000068-74
240.	FBI_000075-99
241.	FBI_000100-111
242.	FBI_000112
243.	FBI_000113-16
244.	FBI_000117-126
245.	FBI_000127-131
246.	FBI_000132
247.	FBI_000133
248.	FBI_000134-36
249.	FBI_000137-46
250.	FBI_000147
251.	FBI_000148
252.	FBI_000149

#	Item / Bates No.
253.	FBI_000150
254.	FBI_000151
255.	FBI_000152
256.	FBI_000153
257.	FBI_000154-56
258.	FBI_000157-58
259.	FBI_000159-79
260.	FBI_000180
261.	FBI_000181-91
262.	FBI_000192
263.	FBI_000193-95
264.	FBI_000196-98
265.	FBI_000199-200
266.	FBI_000201
267.	FBI_000202-03
268.	FBI_000204-05
269.	FBI_000206
270.	FBI_000207
271.	FBI_000208
272.	FBI_000209-10
273.	INV_002608
274.	FBI_WAV000001-1760
275.	All documents produced or to be produced by any party or non-party to this litigation
276.	Any and all exhibits listed on Plaintiff's Preliminary and Final Witness and Exhibit List
277.	All documents needed for impeachment and/or rebuttal
278.	Dr. Robert Rauschenberger's Expert Report and all materials identified therein and exhibits thereto
279.	Ian Ratner's Expert Report and all materials identified therein and exhibits thereto
280.	Exemplar consumer sign up documents

#	Item / Bates No.
281.	Correspondence between Respondents and the Landeen Entities
282.	Correspondence between Respondents and Alternate Billing Corporation
283.	Documents related to LEC, regulatory and customer service inquiries and inquiry thresholds
284.	Documents related to charges cleared on behalf of the Landeen Entities, including credits, refunds, write-offs, and totals
285.	Documents related to profits retained by Respondents from charges cleared on behalf of Landeen Entities
286.	Settlement agreements, releases, pleadings, and other papers and court orders filed or entered in <i>Moore v. Verizon</i>
287.	Settlement agreements, releases, pleadings, and other papers and court orders filed or entered in <i>Nwabueze v. AT&amp;T</i>
288.	Motions in <i>Moore v. Verizon</i> relating to class approval and any exhibits thereto.
289.	Motions in <i>Nwabueze v. AT&amp;T</i> relating to class approval and any exhibits thereto.
290.	Documents related to claims of class members, including claims information, in <i>Moore v. Verizon</i>
291.	Documents related to claims of class members, including claims information, in <i>Nwabueze v. AT&amp;T</i>
292.	Any documents and data relating to consumers who either did or did not opt out of the <i>Verizon v. Moore</i> or <i>Nwabueze v. AT&amp;T</i> class action settlements.
293.	All exhibits attached to Respondents' Motion to Modify and Interpret 1999 Order [Docket No. 93], including all charts and/or demonstrative diagrams contained within said Motion, filed with the Court in this matter
294.	All exhibits attached to Respondents' Reply in Support of the Motion to Modify and Interpret 1999 Order [Docket No. 113], including all charts and/or demonstrative diagrams contained within said Motion, filed with the Court in this matter
295.	Demonstrative exhibits, including diagrams, charts, timelines and spreadsheets
296.	All depositions transcripts of depositions taken in this case and any and/or all exhibits attached thereto
297.	All documents from the Federal Bureau of Investigations

Respondents reserve the right to supplement or modify this list of exhibits based on further discovery or investigation. Respondents further reserve the right to supplement or modify this list of documentary evidence in response to Plaintiff's production of additional documents and information, including, but not limited to documents or information produced as part of any expert report. Respondents further reserve the right to submit additional documentary evidence in cross-examination, rebuttal, or for impeachment.

Dated: September 19, 2013

Respectfully submitted,

By: /s/ Derick J. Rodgers  
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(317) 237-0500

\* *Pro hac vice*

**CERTIFICATE OF SERVICE**

I certify that on September 19, 2013, a true and correct copy of the foregoing document was filed with the Clerk of Court using the CM/ECF system which will send electronic notification to all counsel of record.

/s/ Derick J. Rodgers  
Derick J. Rodgers